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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,977	07/03/2003	Masami Miyawaki	02309/000N001-US0	4344
7278	7590	07/13/2004	EXAMINER	
DARBY & DARBY P.C.			MILLER, BENA B	
P. O. BOX 5257			ART UNIT	
NEW YORK, NY 10150-5257			PAPER NUMBER	

3712

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/613,977	MIYAWAKI ET AL.	
	Examiner	Art Unit	C0
	Bena Miller	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the toy member attached to the lid body must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Note it appears by the specification and drawing that the toy member is only attached to the container body.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the toy member attached to the lid body as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 10 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 13. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is

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proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 11 and 14-20, the examiner is unsure if applicant is claiming the combination of container and the content or the subcombination of the container.

BSM This in turn, is because while in line 4 of the claim appears to indicate the applicant's intention is to claim only the container, other claims recite limitation that are dependent on the content (Note: claims 11 and 14-20). In this Office Action, the examiner presumes that the applicant's intention is to prosecute the subcombination of ^{the} container, *BSM* in order that the claims are given their broadest reasonable interpretation. Accordingly, all additional limitations that are dependent on the content are not considered further structurally limiting with respect to the claimed device.

Regarding claim 1, it is not clear as to what is encompassed by the phrase "in a condition closing said opening".

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Regarding claim 3, the claim recites "two holes"; however, it is not clear if the two holes are the same as the hole recited in claim 2 since claim 3 requires the connecting members extending from one of the two holes.

Regarding claim 7, it is not clear how the outer surface is drawn pictures. It appears that the drawn pictures are on the outer surface.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 8, 9, 11, 16, 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Jonas.

Jonas teaches in the figures a container comprising a container body (fig.1) defining a receptacle, an opening (fig.3), a lid body (11) and a toy member (27).

Regarding claim 5, Jonas further teaches a sliding member (27).

Regarding claim 6, Jonas further teaches a pair of rail portions (23, 24, 25).

Regarding claim 8, Jonas further teaches a handle mounted on the container (21).

Regarding claim 9, Jonas further teaches the handle member pivotably connected to the container (fig.1).

The Examiner considers the limitations of claims 11, 16, 17, 19 and 20 to be inherent in the device of Jonas.

Claims 1, 2, 4 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Myers.

Myers teaches in the figures a container comprising a container body (fig. 1 and 2), an opening (fig. 1 and 2), a lid body (7) and a toy member attached to the container body (36, 37 and 10-12).

Regarding claim 2, Myers further teaches the container having a hole formed therein and the toy member is secured on a connecting member (fig. 4; 37, 36).

Regarding claim 4, Myers further teaches the hole is positioned above the receptacle portion and content (fig. 1).

The Examiner considers the limitations of claim 14 to be inherent in the device of Jonas.

Allowable Subject Matter

Claims 3, 7, 15 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walter teaches a self-contained toilet. Johnston teaches a combined toilet case and satchel. Cordova et al teaches a camping clean-up.

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Goldsmith teaches a combined vanity and camera case. Zilem teaches a tooth brush holder. Denis teaches a lady's handbag. Valfer teaches a jewel case. Wilson teaches a dispensing container. Rombough teaches a stuffy box. Dumont teaches a word finding game. Zarb teaches a backseat storage container. Pyrce et al teaches a toy lantern. Dlott et al teaches a transformable lunch-box. Russomanno et al teaches a lunch box having selectable displays. Cogliano teaches an animal art case. Haarlander teaches a lunch box assembly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643. The examiner can normally be reached on Monday-Friday.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller
Examiner
Art Unit 3712

bbm
July 09, 2004